

# Town of Lovettsville

## Minutes of the Planning Commission Meeting February 1, 2017

### **Call to Order/Pledge of Allegiance**

Chairman Frank McDonough called the Regular Meeting of the Lovettsville Planning Commission to order at 7:30p.m. on February 1, 2017 at the Lovettsville Town Hall at 6 East Pennsylvania Ave, Lovettsville, Virginia.

### **Pledge of Allegiance**

Chairman McDonough led those present in the Pledge of Allegiance.

### **Present at Meeting**

- Chairman Frank McDonough
- Commissioner Joseph Mueller
- Commissioner Christopher Hornbaker
- Commissioner Shiva Schilling
- Commissioner Thomas Ciolkosz
- Commissioner Nate Fontaine

### **Absent**

- Commissioner Stephanie Wolf

### **Staff Present**

- Zoning Administrator Joshua Bateman
- Town Clerk Harriet West

### **Public Comment**

Chairman McDonough called for comments from the public. There were none.

### **Additions/Deletions/Modifications to the Agenda**

Chairman McDonough stated he is inserting a motion to modify the Planning Commission Bylaws and Special Rules of Procedure to allow a Planning Commission to participate by remote location via electronic communication means. Chairman McDonough stated that the Town Council presently allows such participation but that when he asked about this he was told no, the Planning Commission bylaws do not permit it. He stated that Commissioner Stephanie Wolf is home recovering from gallbladder surgery, and that when he asked the Town Attorney about this last week, she told him such participation is permissible provided the Commission amends its bylaws. Ms. Wolf is standing by to participate if the Commission is willing to amend its bylaws.

Mrs. Schilling moved to adopt Resolution PC2017-02-0001 to amend the Planning Commission Bylaws and Special Rules of Procedure to allow Planning Commissioners to participate in meetings by electronic communication means as presented. Chairman McDonough called for a vote, and Mr. Ciolkosz asked whether a second was necessary. Chairman McDonough said that the Commission would get to that later in the meeting, and Mr. Hornbaker stated that the motion could not be voted on unless seconded. Mr. Mueller seconded the motion. Chairman McDonough asked whether there was any discussion.

Mr. Fontaine objected to the proposed action and stated that, as a member of local government, Planning Commissioners should be able to face the public and explain decisions that they make. So, while he can see Stephanie Wolf on the video screen and is not opposed to this specific method of participation, such

electronic participation overall would not preclude someone telephoning in by land line, cell phone or some other method. He said that Planning Commissioners should be able to sit in the room and talk with people, so his point is that he should be able to meet in person with the public out of respect since the public has taken time to meet with him.

Chairman McDonough stated that the one case he has seen in which the Town Council has used this method was when Council Member Jim McIntyre was unable to attend while travelling out west, and the electronic method used was a telephone conference call, which was of poor quality at best. He said he thinks it would be fair to say that he would not have been able to engage the public in an effective manner had the public wanted to question him. He said he felt the Planning Commission could do it better, and if someone from the public wanted to address Ms. Wolf, it would be no problem for the Town Planner to simply turn the monitor towards that person so he or she could talk to her directly provided the audio's volume is sufficient. Chairman McDonough said he agrees that the language in the amendment may not be specific enough to require such a direct video link. Mr. Fontaine said he is against town governments functioning in such a way, and reiterated that if the public comes in, they expect to be able to see the person they are addressing. He said that he understands there may be issues with travel, surgeries or other unforeseen circumstances, but in his opinion, members should be in the meetings rather than on a computer monitor or television screen.

Chairman McDonough suggested perhaps the Commission should send notice to Council asking for clarification and stating that the one sentence perhaps does not make the grade. He asked Mr. Fontaine whether that would be satisfactory, and Mr. Fontaine replied that no, he still feels you need to be here.

Mr. Ciolkosz said he brought this up a year and a half ago and is in favor of electronic communication involving video and two-way communication. He said this is because things come up and emergencies have happened in the past whereby a quorum was not otherwise present. He said that Ms. Wolf is not missing the meeting because she is stuck in traffic, but because of a medical procedure. Mr. Ciolkosz said that he would take it one step further to authorize only electronic, two-way communication by video that would only be utilized for legitimate medical reasons or to attend a funeral.

Chairman McDonough said it was his understanding from talking to the Town Attorney that the Commission has little leeway to modify this based on the reference to the state code. Mr. Bateman stated his belief that the Commission can specify the specific means by which the Commission will allow electronic communication participation. Mr. Ciolkosz suggested electronic, two-way video communication and said that he sees Mr. Fontaine's point that you need to be engaged, but that even though conference calls may not be acceptable, there needs to be an allowance for two-way video. He said that he is in favor of limiting such participation for specific reasons such as medical, funeral or business purposes.

Mr. Mueller said he agrees with Mr. Fontaine, but that there are a couple of issues, one of which is when multiple people are out but want to participate electronically. He said that the Commission has had instances in which multiple people were out working and asked whether that would qualify. He said if three people failed to show up but could simply dial in, that would be a concern. Mr. Mueller said that this is a small town where everyone knows everyone else, that he agrees with Mr. Fontaine, and that Commissioners should attend the meetings in person. Although he understands that situations can arise requiring Commissioners to be absent, he said that this situation seldom results in a lack of a quorum.

Mr. Hornbaker asked whether the Planning Commission's rules for participation require an approved motion by the Commission, and Mr. Bateman replied in the negative. Chairman McDonough said that the Town Council let everyone know what they were doing and allowed members to participate by electronic means twice per year. Mr. Hornbaker inquired as to what the state code allows regarding this, and Chairman McDonough replied by reading the applicable code section. Mr. Bateman explained to Mr. Hornbaker that the reason why a member would not be required to prove that the criteria established in the state law has been met is because the Commission would have a written policy as required by the state code listing the circumstances under which electronic participation would be allowed. He read the

state code enabling provision regarding this topic. He said that requiring a process like that for every member might lead to a lack of uniformity in terms of its application and stated that the Commission's policy should allow such participation for all time under the very strict terms and criteria provided in the statute. Mr. Hornbaker raised issues with the language proposed in the amended bylaws. He asked whether the means for the remote location referenced therein are not open to the public. Chairman McDonough clarified that such means are not open to the public. Chairman McDonough suggested that the Commission approve this amendment as written, return to this topic following consideration under Item B. and list out valid reasons why members would be allowed to participate electronically.

Mr. Bateman stated he did not think the Commission is able to do that because the reasons allowable under the law are so specific. He read those authorized reasons in the state code. He said that since only specific medical reasons are described, the only way more than one member would be absent and able to participate remotely is if there were an outbreak of flu or some similar situation. Mr. Bateman noted that someone must have a medical disability that would allow them to participate remotely up to twice a year, and the Commission should not attempt to expand upon this by allowing members to participate remotely for other non-medical reasons. He reiterated that specifying the means in the bylaws by which members may participate is likely allowable.

Chairman McDonough asked whether the two-way video feed he has set up should be specified in the bylaws and whether making that change addresses everyone's initial concerns except for Mr. Fontaine and Mr. Mueller. Mr. Mueller said that he thought that Chairman McDonough's proposed solution is a good one even though he will likely vote against it.

Mr. Hornbaker moved to amend the motion by adding "two-way video communication" after the word "electronic"; deleting "and the Planning Commission hereby approves such participation" and replacing it with "at a pre-written request of the member. No further approval of by the Planning Commission or Chairman shall be required." He explained his reasoning for proposing this amendment by saying that the member would only have to request it one time to be granted permission to participate electronically and no further action by the Commission should be required. Mr. Bateman requested clarification as to the motion, and Mr. Hornbaker provided clarification. Mr. Bateman read the statute and highlighted the statement regarding the approval process. Mr. Ciolkosz asked whether such a process was required, and Mr. Bateman confirmed this. Mr. Bateman continued reading the statute and re-read the notification and approval requirements. He asked Mr. Hornbaker whether he felt a separate approval process is required. Mr. Hornbaker said that creating a formal approval process is what he is trying to prevent, and said that it should not be up to the Commission to determine whether someone has a legitimate medical reason or not. Mr. Hornbaker explained his reasoning and said that if the Commission goes forward with this, he would like such absences to be based on a good faith and there should be nothing further in the bylaws to prevent a member from participating.

Mr. Mueller asked whether the statute specifies illnesses and disabilities in addition to business reasons, and Mr. Bateman replied that business reasons are not allowed. Mr. Mueller said this would strictly apply to medical reasons. Mr. Bateman asked for clarification about whether a member simply submitting a written request to the Chairman constitutes the entire approval process. Chairman McDonough said that he has a narrow view of this and would not allow a member to participate electronically if absent due to a flat tire or something trivial, but that he would be inclined to consistently permit participation for medical reasons for all members. Mr. Mueller asked whether the statute specifies that such participation is allowed twice annually for the entire Commission or twice for each Commissioner, and Chairman McDonough clarified that it is twice for each Commissioner. Mr. Bateman said that he does not wish to question the merits of what has been proposed, but does wish to advise them as to the legality of the amendment. He asked Mr. Hornbaker whether no further approvals would be needed once a member submits a written letter to the Chairman, and Mr. Hornbaker replied in the affirmative and clarified that it would be allowed up to twice per year. The Commission discussed the reasons Mr. McIntyre was previously absent from a Town Council meeting.

Mr. Ciolkosz noted the motion requires a second. Chairman McDonough asked for a second on the motion to amend. Mr. Ciolkosz seconded the motion. Mr. Mueller requested clarification regarding the process and whether an email to Chairman McDonough would be acceptable. Chairman McDonough clarified the notification process and Mr. Bateman clarified that the Chairman would have no discretion in this regard provided the criteria have been met. Mr. Fontaine asked whether the statement in the state code requires approval, and a discussion ensued about the discretion of the Chairman to approve such requests. Mr. Bateman read the state code and said that an approval process is required, but that the members can agree that the process just discussed constitutes a proper approval process. Mr. Fontaine said that the proposed approval process is described only loosely. Chairman McDonough said that he feels the proposed amendment covers all situations that are likely to occur. Mr. Fontaine asked whether the amended language needs to be reviewed again by the Town Attorney, and Mr. Bateman said he would be happy to do that since he is not a lawyer himself.

Chairman McDonough asked whether there was any additional discussion. There being none, he called for the question on the original motion and the amendment. Mr. Hornbaker called a point of order. He stated that the motion to amend the original motion must be considered first. If it passes, the vote is then on the original motion as amended and, if not, the original motion as presented should be taken up. Chairman McDonough called for the question on the motion made by Mrs. Schilling. Mr. Hornbaker called a point of order and stated that the amendment must be voted on first. Mr. Bateman agreed and asked whether the original motion would be voted on afterwards, and Mr. Hornbaker explained the proper procedure under Robert's Rules.

Chairman McDonough called for a vote on the motion to amend by Mr. Hornbaker. Commissioners McDonough, Hornbaker, Ciolkosz, Mueller and Schilling voted aye. Commissioner Fontaine voted no. Chairman McDonough announced that the motion carried with a vote of 5 to 1.

Chairman McDonough called for a vote on the motion made by Mrs. Schilling to adopt the original language of the resolution. Mr. Hornbaker called a point of order. He asked Mr. Bateman to read the amended motion. Mr. Bateman said the motion is to adopt Resolution PC 2017-02-0001 to amend the bylaws and special rules of procedure of the Planning Commission to allow participation by electronic communication means, as amended on Page 4 as follows: (1) the phrase "two-way video" shall be inserted between the words "electronic" and "communication"; and (2) everything after the reference to Section 2.2-3708.1 shall be deleted and replaced with the phrase "at the pre-written request of a member. No further approval by the Planning Commission or Chairman shall be required." He asked whether the motion is correct, and Mr. Hornbaker replied in the affirmative. Chairman McDonough call for a vote.

**Motion:** To adopt Resolution PC 2017-02-001 amending the Planning Commission Bylaws and Special Rules of Procedure to allow participation of members by electronic communication means, as amended.  
**By:** Commissioner Schilling  
**Second:** Commissioner Mueller  
**Aye:** Commissioners McDonough, Ciolkosz and Schilling  
**Nay:** Commissioners Fontaine, Mueller and Hornbaker  
**Abstain:** None  
**Absent:** Commissioner Wolf

Chairman McDonough announced that the motion did not pass on a 3 to 3 tie. Chairman McDonough said that Ms. Wolf would be listening in on the meeting even if she is unable to participate as a member of the Commission.

#### **Planning Commission Minutes**

There were no minutes for approval.

#### **Zoning Administrator Monthly Activity Report – December 2016**

Chairman McDonough asked whether there were any questions on the report. Mr. Bateman explained that the January report would be presented at the next meeting and stated that the Commission will consider the sign ordinance amendment at that time provided the Town Attorney completes her review. He also announced an amendment to the Town's floodplain regulations and asked Chairman McDonough to confirm whether a quorum of members will be present at the joint public hearing regarding this item. Mr. Bateman explained the nature of the changes and said that if there are any questions prior to the public hearing, to please let him know.

Mr. Ciolkosz asked Mr. Bateman whether language in the sign ordinance addresses signs on property to be annexed by the Town. Mr. Bateman responded no, not currently. Mr. Ciolkosz suggested adding requirements to this effect for properties to be annexed. Mr. Bateman stated his recollection is that the Commission did discuss the electronic sign at the fire station previously but that they could certainly do so again when the Commission reconsiders the sign ordinance amendment. Mr. Ciolkosz asked about the Keena Subdivision and asked why no activity has occurred if the owner was in such a big hurry previously. Mr. Bateman responded that the applicant has been in a hurry for eighteen years. Mr. Ciolkosz commented that the Town should accommodate applicants as much as possible, and Mr. Bateman stated that Mr. Keena is still looking for a builder and that likely explains the delay in submitting construction drawings. He said the project is proceeding according to Mr. Keena's pace.

#### **Action/Discussion Items**

- A. LVZA 2016-0005: Amendment to Clarify Zoning Requirements Related to Future Boundary Line Adjustment of the LVFRC Properties.

Chairman McDonough announced that since the next part of the meeting consists of a work session, the Commission would not be conducted as formally as the first part of the meeting. He asked whether everyone had a copy of the staff report. He stated his desire to review the amendment line-by-line.

Mr. Fontaine asked how Ms. Wolf's comments would be addressed and whether they would read during comments from the public. Chairman McDonough stated that, if there is no objection, he suggests they be attached to the minutes as if submitted by the public. He said he would track them as they read each section.

Chairman McDonough delivered a background report on how he and staff developed the idea of an amendment to the CRA-1 District once the amendment proposed to the C-2 and I-1 Districts failed last meeting. He asked the Commission to review the amendment.

Section 42-2: Mr. Ciolkosz asked why the Commission is defining farmers' market and farm and garden stores when there are 22 other permitted uses that do not have corresponding definitions, and Mr. Bateman said that many likely do have definitions, but not all the definitions for various permitted uses were included in the amendment. Mr. Ciolkosz asked why uses such as agriculture, horse farms, and livestock farms are not defined. Mr. Mueller said that this is part of a larger amendment including several changes to better allow for the Lovettsville Cooperative Market to use the existing fire station. Mr. Ciolkosz said his point is that uses such as repairing machinery and equipment are allowed, but in theory there could be ten combines parked out front. Mr. Bateman stated he does not disagree but plans to pursue a future amendment that would add definitions for all permitted and conditional uses, and that adding definitions for all terms is not within the scope of this present amendment. Mr. Ciolkosz said that in theory you could have farms with pigs, horses and cows running around. He said we think the co-op is going in there, but nobody's thinking about the guy putting 150 horses in there.

Mr. Mueller stated the intent is to annex places that have the uses there already, so if someone wants to be annexed for a use that is not allowed, he does not think the Town would annex them. Chairman McDonough agreed that the CR-1 should not be specifically set up for three pieces of property because there is an establishment across the street that repairs farm equipment, and that owner could ask for an

annexation. Mr. Ciolkosz said that the definition allows for the sale and repair of such equipment including large equipment, and Mr. Mueller suggested changing the definition to allow only small equipment sale and repair. A discussion followed regarding amending the definition in this way and examples of existing businesses in Loudoun engaged in similar activities. Chairman McDonough asked Mr. Hornbaker whether he thinks the definition is overly broad, and Mr. Hornbaker replied that he thinks the definition is overly specific. Mr. Ciolkosz reiterated his concerns about large combines being displayed and operated on an annexed property and horse and livestock operations authorizing a hundred pigs. He said poultry farms could allow a whole butch of chickens like the chicken houses he sees when he travels through Georgia. Mr. Bateman suggested that any areas the Town considers annexing will likely be farms, so that if agricultural uses are not permitted, residential uses that preclude future farming are the only remaining viable uses of such properties.

Mr. Hornbaker said the issue is not with Number 1 but rather the definition of Number 21, which he explained involves the definition of a repair shop and the types of equipment and machinery that are included in that activity. Mr. Ciolkosz suggested striking "repairing machinery, equipment and other supplies used for soil preparation." A discussion followed regarding the John Deere store in Purcellville and how that fits in with the amended definition. Mr. Bateman suggested making farm cooperatives a separate by-right use, and Mr. Fontaine advised that that use be taken out and that uses involving repair and sale of farm equipment be limited to the industrial zone. A discussion followed regarding the authorized activities included in the definition of "farm market and store," at the end of which Mr. Bateman suggested eliminating "the renting or repairing of machinery and equipment" but keeping the "renting and sale of supplies." A discussion followed, Mr. Ciolkosz suggested distinguishing between indoor and outdoor activities, Mr. Mueller suggested amending the definition based on the size of the equipment being rented or sold, and the Commission discussed the merits of these various proposals. Mr. Mueller said the question before the Commission is whether certain farm-related uses should be allowed in a farming community. A discussion continued regarding whether the repair shop located across the street from West End Motors would be considered a farm use, and Mr. Hornbaker suggested striking such uses since the uses running down Route 287 might fall under that definition and this amendment would appear to favor those uses. The Commission discussed this proposal, and Mr. Bateman explained that this amendment deals with annexation zoning district, but if the Commission has no intention of rezoning the fire station properties for industrial use in the future, then it makes sense to exclude industrial uses from the proposed CRA-1 District. He explained the need to revisit the commercial and industrial zoning districts at some point in the future.

Chairman McDonough asked the Commission what change to the definition is necessary to satisfy members, and Mr. Ciolkosz said that if you add the word "indoors", he is okay with it. A discussion followed on whether to remove language about repairing of machinery and equipment and keep the ability of such business to sell farm supplies or rent farm machinery or equipment. Mr. Hornbaker proposed the following: "farm and garden shop or store means an establishment selling or renting equipment and supplies for use in soil preparation and maintenance." Mr. Bateman said Mr. Ciolkosz desires to add "with indoor displays and storage only" after the word "supplies." Mr. Ciolkosz agreed. Mr. Bateman suggested to the Chairman that he conduct an informal poll of members to see which version of the amended text has majority support. Chairman McDonough said he likes to use the phrase "without objection" when making such determinations. Mr. Mueller described a scenario in which tillers and lawn mowers would be displayed in front of such a business. Chairman McDonough asked whether adding indoor storage requirements as proposed by Mr. Ciolkosz would affect the viability of a retail nursery. Mr. Hornbaker said that, with retail nurseries, outdoor storage is a given. Mr. Bateman agreed. Mr. Mueller said that the question is whether we are potentially limiting some business activity that the owner wants to undertake. A discussion followed regarding indoor versus outdoor storage of such farm equipment, and Mr. Hornbaker said a tiller and a combine are very different in terms of scale. Mr. Bateman proposed the following: "A farm and garden shop or store means an establishment selling or renting equipment and supplies for use in soil preparation and maintenance and not including outdoor storage." The Commission agreed without objection to the definition proposed by Mr. Bateman.

Section 42-150: Chairman McDonough read the proposed amendment in its entirety and asked whether Commissioners had any questions. There were none.

Section 42-243: Chairman McDonough read the proposed amendment in its entirety. Mr. Bateman asked whether there were any objections to the purpose statement and stated the intent of the amendment. Mr. Fontaine pointed out that the intent references residential use, and Mr. Bateman replied that the district is intended for low-density residential and that changing the minimum lot size from 12,000 square feet to what is written confirms this. Mr. Fontaine stated that the amendment flat out says that the district is intended for residential, and Mr. Bateman said the use of the phrase "low-density residential" adds context. A discussion followed on whether the intent should be to allow residential and the proper way to reflect that in the text. Mr. Bateman agreed to use the phrase "commercial and residential" and the Commission agreed without objection to the change.

Chairman McDonough stated the name of each permitted use and asked the Commission whether the proposed amendment was acceptable. Mr. Hornbaker said that, with respect to Number 2, accessory apartments conflict with the intent to allow only low-density residential uses. A discussion ensued about whether to allow them, and the Commission directed Mr. Bateman to make accessory apartments a conditional use.

Mr. Hornbaker asked whether Number 12 concerning commuter parking lots was intended to allow public or private lots. Mr. Bateman said that the definition does not specify, so both would be allowed. A discussion followed on whether to include both public and private commuter lots, the 50-space size threshold distinguishing by-right and conditionally-permitted lots, and whether this threshold should be changed to 30 spaces. Mr. Bateman noted that the definition only adds private lots as a permitted use since public lots would be considered a public facility and exempt from zoning provided the Commission finds that the use is in accordance with the comprehensive plan. He asked whether the Commission wanted to reduce the 50-space limit, and the Commission discussed this before agreeing that the threshold should remain 50 spaces.

Mr. Fontaine asked what the difference was between numbers 10 and 18, and Mr. Bateman replied that one covers schools having more than 15 pupils.

Mr. Hornbaker stated that, regarding Number 20, there is no state code definition of a bar or a restaurant. He said that if the ABC definition or requirements for farm-based microbreweries changed by requiring the sale of food, farm-based breweries would then be considered restaurants. He said businesses like this could very well end up in Lovettsville that would not meet the state definition but would fall under the local definition of restaurant. Mr. Hornbaker suggested making farm-based breweries a conditional use. Mr. Bateman asked whether the Commission would like to add that use, and the Commission agreed without objection to add microbreweries to the CRA-1 District. Mr. Bateman suggested adding distilleries and gave examples of distilleries in Central Virginia. He suggested also that they be added to the industrial zoning districts in the future. Chairman McDonough asked whether farm breweries would better fall under the definition of agriculture, and Mr. Bateman stated that the County does this now by treating them as by-right, farm-based businesses under the Right to Farm Law. A discussion followed on whether to add microbreweries to the list of permitted uses, and the Commission agreed to this change.

Chairman McDonough asked why Number 20 was added, and Mr. Bateman replied that such assembly uses were specifically added to permit the assembly hall at the fire station.

Mr. Hornbaker asked what was different between the two bed and breakfast uses listed. Mr. Bateman said he could not remember for sure, but thought the difference involved meal preparation. He suggested adding definitions for those two terms at some point, and Mr. Hornbaker asked whether definitions could be added now. Mr. Bateman explained that the Commission could advertise the amendment for public hearing and add definitions for these uses after the hearing concludes since doing so would not require a second public hearing.

Chairman McDonough asked about restaurants and catering services and whether this defines a situation where a restaurant would be allowed by-right on the property across from the community center. Mr. Bateman requested clarification, and Chairman McDonough asked him, if someone outside of town on Route 287 wanted to put a restaurant in their house after being annexed, would they be allowed to do so, and would that have the effect of spreading out where restaurants in town are located. Mr. Bateman said that that was a legitimate concern. Chairman McDonough asked whether this conflicts with policies in the comprehensive plan promoting restaurants in the center of town. Mr. Bateman stated he thinks the policy has more to do with retail, and Mr. Mueller asked, if ten years from now someone has a restaurant in the fire house or a house outside of town, how this would affect their business. Mr. Mueller discussed the possibility of annexing a restaurant business and stated that his desire is to be less restrictive regarding this use.

Mr. Ciolkosz asked whether wineries are included in the definition of agriculture, and a discussion ensued. Mr. Ciolkosz suggested adding wineries after breweries, and the Commission agreed without objection to the change.

Mr. Hornbaker stated that one use in the industrial district begins with pubs, and a discussion followed about whether fraternal clubs and lodges should include pubs. Mr. Bateman asked whether the Commission wanted to add brewpubs to this use, and the Commission agreed without objection to add brewpubs.

Mr. Hornbaker suggested adding distilleries and cideries, and the Commission agreed without objection to add these uses.

Chairman McDonough read the conditional uses. Mr. Fontaine requested the Commission develop the definitions of bed and breakfast establishments and country inns after the public hearing, and Mr. Mueller noted that Section 42-186 is about small-scale lodging facilities. Mr. Bateman said that he can develop definitions for those terms prior to advertising the amendment for public hearing, and Mr. Ciolkosz expressed satisfaction with this course of action. Mr. Mueller said that the difference between the two bed-and-breakfast categories is one of scale and noted that the larger one requires a conditional use permit.

Chairman McDonough continued reading the conditional uses. Mr. Ciolkosz suggested deleting overhead transmission lines, and Mr. Bateman said that since the Town has no real way to regulate this, he is fine with striking it. Mr. Hornbaker suggesting adding the word "private" prior to commuter lots having more than 50 spaces, and the Commission agreed to this change.

Mr. Hornbaker asked about the threshold of 15 students for various school uses and whether the town desires a school with more than 15 students or a high school in the future. Mr. Bateman noted the inconsistencies in terms of how these uses are listed. The Commission discussed inconsistencies in the permitted school uses and whether to expand the types of schools, colleges and universities permitted. The Commission directed Mr. Bateman to change the uses such that any school, public or private, having more than 15 students would be considered a conditional use and any having fewer would be a by-right use.

Chairman McDonough continued reading the conditional uses. Mr. Ciolkosz suggested that wireless communication equipment should be deleted. Mr. Ciolkosz said that he does not want the two-story thing that is made to look like a tree. A discussion followed on whether the use is public or private, and Mr. Hornbaker suggested amending the use "fire, rescue and police stations" to include wireless communication equipment. The Commission discussed examples of wireless communication equipment and types that would be acceptable and unacceptable in addition to the County's wireless policies. Mr. Bateman suggested updating the Town's performance standards for wireless communication equipment, and Mr. Ciolkosz said he is fine with leaving it in there if it is pursued as an action item later.



Chairman McDonough asked whether anyone had any problem with restaurants with drive-through facilities. Mr. Ciolkosz and Mrs. Schilling both replied that they do, and Mr. Ciolkosz recommended striking it altogether. Chairman McDonough said that the Commissioner who is absent shares this view. Mr. Ciolkosz said that any fast-food franchise site requires a certain lot size, zoning, population and traffic counts greater than 20,000. He said that Lovettsville barely meets any of these requirements because the traffic count in Town is only about 7,000 vehicles per day. Mr. Ciolkosz said the Town is setting up to allow drive throughs even though we don't meet the minimum requirements. Chairman McDonough said he does not think that adding drive-through restaurants as a conditional use conveys that the Town wants a drive-through, and Mr. Ciolkosz replied that it opens the door to a potential conditional use permit application for a drive-through restaurant. Chairman McDonough said this is for properties that are located outside the town limits. Mr. Ciolkosz said that we talk about wanting a small, walkable and small-town community, but that it is not going to happen with a drive-through. Mrs. Schilling recommended deleting it, and Mr. Ciolkosz agreed.

Mr. Mueller said he is on the fence with this one and that he does not know whether the County would allow one a quarter of a mile outside of town in a location currently zoned agricultural. He said he does not see where it hurts us regardless of whether we delete it or leave it in. Chairman McDonough said that he is going to be the Town Manager's advocate for a moment. He stated that the Town Manager along with economic development consultant Sam Finz are going to advocate for this in front of the Town Council based on the market study and potential for new revenue to the Town for sidewalks on Broad Way and South Loudoun Street. He stated he wants to make that clear to everyone that that is what will happen regardless of whether the Commission leaves it in or takes it out. Mr. Hornbaker said that that is great, but that drive-through restaurants are one of the reasons the Commission did not act previously on proposed changes to the industrial district. He said that he does not think that this is consistent with the responsibilities of the Commission, and that spending on sidewalks using revenues generated by such uses is the responsibility of a separate branch of government. He said that most Commissioners present tonight will find that this is inconsistent with the comprehensive plan. Mr. Hornbaker recommended striking it for this reason and requesting clarification from the Council regarding their reasoning should the Council decide to add it back.

Chairman McDonough asked whether there was any objection to deleting drive-through restaurants as a conditional use. Mr. Fontaine stated he too is on the fence but that it is better to define drive-throughs before an applicant applies for one than afterwards. That way, the Town will be better prepared. He said that if someone requests a drive-through, we have nothing to justify our position that they are not permitted. The Commission discussed whether to recommend prohibiting drive-through restaurants or not include them as a permitted or conditional use. Mr. Ciolkosz said that if the Town Council wants to include them they should make that decision and refer the matter to the Commission to develop guidelines. He read and explained the duties and responsibilities of Planning Commissions and need for the Planning Commission to be independent and apolitical in making decisions about land use. He said drive-throughs are not supported by the comprehensive plan and that he does not care whether the Town Manager or a survey says we can support one. The discussion continued, and Chairman McDonough asked whether a majority supports removing drive-through restaurants from this district or prohibiting them altogether in the Town. Mr. Ciolkosz said remove it and let the Town Council instruct the Commission to come up with guidelines, and Mr. Hornbaker said the Commission should say that drive-throughs are not consistent with the plan. Mr. Mueller said that he is does not have a problem with drive-throughs but agrees they are inconsistent with the plan. The Commission unanimously agreed to delete drive-through restaurants from the CRA-1 District.

Mr. Bateman requested clarification regarding the Commission's rationale for deleting drive-through restaurants because he wants to be able to explain this to the Town Manager when asked tomorrow morning. He asked the Commission to be more specific with respect to the comprehensive plan, and Mr. Ciolkosz directed Mr. Bateman to read the document prepared by Ms. Wolf. Mr. Bateman said that he would use that as the justification when pressed. Mr. Ciolkosz said that he provided that information

earlier, that the Town does not have the necessary traffic counts, and said that if the Town Manager comes to the meetings he will explain it to him personally. A brief discussion took place and Chairman McDonough announced that we are all in agreement that the use should be deleted.

Chairman McDonough directed the Commission's attention to the document prepared by Ms. Wolf and asked the Commissioners whether the justification stated therein is acceptable for Mr. Bateman to use in discussions with the Town Manager. Mr. Bateman said that Ms. Wolf has even highlighted the relevant items for his convenience, and a discussion took place on the reasons for not allowing drive-through restaurants in Lovettsville and issues regarding traffic and pedestrian safety.

Chairman McDonough asked whether by deleting item 21 that means that the lot area and other requirements in that section should likewise be deleted, and Mr. Bateman explained that those requirements are still needed to place limits, for instance, on maximum residential density.

Chairman McDonough asked whether this was a good time to return to the topic discussed earlier regarding floodplains and wetlands, and Mr. Hornbaker corrected him by explaining that that issue was about signage. Mr. Ciolkosz asked when looking at annexing property whether property owners should be required to comply with the Town sign ordinance or obtain approval of an exception. Mr. Hornbaker asked whether language should be included in the sign and other regulations. Mr. Mueller stated that the issue is about whether the Town should grandfather such uses for a specified period. Chairman McDonough stated that allowing a grandfathered use to obtain a larger sign than an in-town business like the 7-Eleven would give the former a competitive advantage. Mr. Bateman suggested the Commission might benefit from staff conducting additional research into how such signs in the County are considered and treated upon annexation by a town. A discussion followed regarding the signs on the fire station property, and the Commission agreed that Mr. Bateman should conduct further research into the issue.

Chairman McDonough asked whether there were any questions on items 2-6 regarding lot size. There were none. Mr. Bateman explained the purpose of adding a maximum density requirement. Mr. Hornbaker asked whether last year's amendment modifying the required rear yard setback was reflected in this present amendment, and Mr. Bateman stated that that applies to the C-2 District, not the proposed CRA-1 District. He asked Mr. Hornbaker whether he desires to include a similar provision here, and Mr. Hornbaker explained that annexing property located across Route 287 would create the need to add a similar provision in this article. A discussion followed about whether to include such a reduced setback in the CRA-1 District. The Commission agreed that such a provision was unnecessary because the rear yard setback in CRA-1 is significantly less than that in the C-2 District.

Chairman McDonough read the proposed zoning provisions for open space, lot coverage and maximum lot yield in the CRA-1 District. He explained the requirement for one dwelling unit per 5 acres. Mr. Bateman explained the various subdivision options in the County's AR-1 District. He stated that residential development at this maximum density would not be desirable for developers. A discussion followed about properties and subdivisions outside of town that could be annexed at this density. Mr. Bateman said that this maximum density means that any property would need to be rezoned to accommodate significant residential development.

Chairman McDonough said that if there are no further questions, that concludes the discussion on the CRA-1 District. He called for a motion on the issue.

**Motion:** "I move to schedule a public hearing on the revised draft amendment, including the discussion that we have had today, on March 1, 2017."  
**By:** Commissioner Ciolkosz  
**Second:** Commissioner Mueller  
**Aye:** Commissioners Ciolkosz, Fontaine, Hornbaker, Mueller, McDonough, and Schilling  
**Nay:** None  
**Abstain:** None

**Absent:** Commissioner Wolf

**Next Meeting**

Chairman McDonough announced that the next meeting would be the joint public hearing on Thursday, February 9<sup>th</sup>. Mr. Ciolkosz indicated he could not make the meeting. All other Commissioners present indicated they could attend.

**Committee Reports**

Chairman McDonough gave an update on Love Spring Committee activities. Mr. Fontaine announced Business and Tourism Committee activities. Chairman McDonough discussed replacement of the clock faces as part of the Parks and Beautification Committee. Mr. Mueller updated the group about the Infrastructure, Environment and Utilities Committee's activities. Mr. Hornbaker gave an overview of the Information Flow Committee's activities and creation of the new Town website.

**Comments from the Commissioners**

The Mayor was not present.

**Adjournment**

There being no further business before the Planning Commission, the meeting was adjourned at 9:48p.m.

Respectfully submitted,



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Harriet West, Town Clerk

Date Approved: June 20, 2018

Attachments:  
None